

No. 09-16852

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JAMES ROTHERY, Esq.; ANDREA HOFFMAN

Appellants/Plaintiffs,

vs.

Former Sheriff LOU BLANAS; SHERIFF JOHN MCGINNIS;
Detective TIM SHEEHAN; SACRAMENTO COUNTY
SHERIFF'S DEPARTMENT, an independent branch of
government of the COUNTY OF SACRAMENTO; COUNTY
OF SACRAMENTO; STATE OF CALIFORNIA ATTORNEY
GENERAL JERRY BROWN

Appellees/Defendants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

No. 2:08-cv-02064 JAM KJM

APPELLANTS' OPPOSITION TO STAY REQUEST

Gary W. Gorski - CBN: 166526
THE LAW OFFICES OF GARY W. GORSKI
1207 Front Street, Suite 15, Sacramento, CA 95814
Tel. (916) 965-6800 | E-mail: usrugby@gmail.com
Lead Attorney for Appellants/Plaintiffs

Daniel M. Karalash - CBN: 176422
dankaralash@gmail.com

Dustin MacFarlane - CBN 262162
dustin@macfarlanelegal.com

Brian Kennedy - CBN: 247961
brian_kennedy6@yahoo.com

Craig C. Weaver - CBN: 264571
craigcweaver@ccweaver.com

OPPOSITION

Appellants oppose Appellees' stay request for the following reasons:

1) Appellants filed their Opening Brief on May 5, 2010, without any stay being issued in this case pending *McDonald v. Chicago*, 561 U.S. ____ (2010).

2) The Supreme Court issued its ruling on June 28, 2010, almost two months after Appellants filed their Opening Brief.

3) Because Appellees were previously granted a stay pending a ruling from the Supreme Court in *McDonald v. Chicago*, 561 U.S. ____ (2010), they have already had an inordinate amount of time to file responsive briefs. If there is a further stay, Appellees will receive an unfair advantage over Appellants in that they will receive several more months to draft their responsive briefs, placing Appellants at an unfair advantage.

4) *Nordyke v. King*, Case No. 07-15763, does not present the same or similar facts as the present case. *Nordyke* is more akin to the regulation of commercial transactions of firearms as compared to the "personnel" right of self defense under the Second Amendment.

5) *Mehl v. County of Sacramento, et al.*, 9th Circuit Case No. 08-15773 was fully brief and argued prior to any ruling in *McDonald v. Chicago*, 561 U.S. ____ (2010) or *Nordyke v. King*, Case No. 07-15763. Therefore, this case should be treated no differently.

CONCLUSION

Appellees application for a stay should be denied.

Dated this Monday, August 16, 2010

Respectfully submitted,
THE LAW OFFICES OF GARY W. GORSKI

/s/ Gary W. Gorski
Gary W. Gorski
Attorney for Appellants/Plaintiffs